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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/613,230	07/07/2003	Dale A. Trsar	10473-998	7010
20277	7590	08/11/2005	EXAMINER	
MCDERMOTT WILL & EMERY LLP 600 13TH STREET, N.W. WASHINGTON, DC 20005-3096			CHARIOUI, MOHAMED	
			ART UNIT	PAPER NUMBER
			2857	

DATE MAILED: 08/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/613,230	TRSAR ET AL.	
	Examiner	Art Unit	
	Mohamed Charioui	2857	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 23 May 2005.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1,2,4-9,11-16,18-23 and 25-38 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1,2 4-9, 11-16, 18-23 and 25-38 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 12/2/03 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

1. Applicant cancelled claims 3, 10, 17 and 24.

DETAILED ACTION

Drawings

2. **Figure 1A** is objected to because boxes are not labeled. The Examiner directs the applicant to 37 C.F.R. 1.84(n) and 1.84(o) which state, "Graphical drawing symbols may be used for conventional elements when appropriate" while "[o]ther symbols which are not universally recognized may be used, subject to approval by the Office" and that "[s]uitable descriptive legends may be used subject to approval by the Office, or may be required by the examiner where necessary for understanding of the drawing". Since the drawing in Figure 1A does not contain conventional elements, the Examiner may require descriptive legends for better understanding of the drawings. See MPEP 608.02.

Claim Objections

3. **Claims 1, 2, 4-9, 11-16, 18-23, 25-29 and 38** objected to because of the following informalities: Each of claims 1, 5, 8, 15, 22 and 38 recites the limitation "the number of each validated diagnostic result". There is insufficient antecedent basis for this limitation in the claim. Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 4 and 6-9 and 11-16 and 18-38 are rejected under 35 U.S.C. 102(b) as being anticipated by Phung et al. (US. 2002/0007237)

As per claims 1, 2, 4, 6, 8 and 9, Phung et al. teach collecting data related to effective fixes corresponding to various symptoms from a plurality of diagnostic systems via a data transmission network (see paragraphs [0009]-[0010]); accessing a validation result of validated effective fixes corresponding to each of the various symptoms (see paragraph [0064]); based on the collected data accumulating the number of each validated effective fix corresponding to each of the various symptoms (see paragraphs [0010] and [0017]); and assigning at least one effective fix to one of the various symptoms based on a result of the accumulating step (see paragraph [0010]).

As per claims 7, 11-14, 18-21, 23 and 28-33, Phung et al. further teach receiving a request to access to the data including the at least one effective fix assigned to the one of the various symptoms from one of the plurality of diagnostic systems via the data transmission network (see paragraph [0064]); transmitting the data including the at least one effective fix assigned to the one of the various symptoms to the one of the plurality of diagnostic systems via the data transmission network (see paragraph [0064]); and receiving data related to effective fixes corresponding to various symptoms from the one of the plurality of diagnostic systems via the data transmission network (see paragraphs [0019] and [0064]).

As per claims 15 and 16, Phung et al. further teach a data processor for processing data; a data communication port for connecting to a data transmission network (see paragraphs [0032]-[0033]); a data storage device for storing instructions

(see paragraph [0033]); and a data transmission path coupled to the data processor, the data communication port, and the data storage device (see paragraph [0033]); wherein the instructions, when executed by the data processor, control the data processing system (see paragraphs [0034]-[0037]).

As per claims 22 and 25-27, Phung et al. further teach receiving data related to effective diagnostic results corresponding to various faults from a plurality of diagnostic systems via the data transmission network (see paragraphs [0009]-[0010]); accumulating the number of each effective diagnostic result corresponding to each of the various faults (see paragraph [0010]); and assigning at least one effective diagnostic result to one of the various faults based on a result of the accumulating step (see paragraph [0010]).

As per claims 34-37, Phung et al. further teach that the storage device further stores instructions that, when executed by the data processor, control the data processing system to generate a fault prediction based on the data related to effective diagnostic results (see paragraph [0037]).

As per claim 38, Phung et al. further teach generating an index for each effective fix corresponding to each of the various symptoms based on a result of the accumulating step and assigning at least one effective fix to one of the various symptoms based on the index for each effective fix corresponding to each of the various symptoms (see paragraph [0039]).

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claim 5 is rejected under 35 U.S.C. 102(e) as being anticipated by Papageorge (U.S. 6,584,445).

Papageorge teaches collecting data related to effective fixes corresponding to various symptoms from a plurality of patient diagnostic systems via a data transmission network (see col. 1, lines 14-25 and col. 5, lines 15-23); accumulating the number of each validated effective fix corresponding to each of the various symptoms (see col. 5, lines 29-58); and assigning at least one effective fix to one of the various symptoms based on a result of the accumulating step (see col. 5, lines 41-58).

Response to Arguments

6. Applicant's arguments filed 5/23/05 have been fully considered but they are not persuasive.

Applicant argues that Phung et al. reference does not teach accessing a validation result of validated effective fixes and assigning at least one effective fix to a symptom based on an accumulated number of validated effective fixes.

Examiner disagrees with Applicant argument since Phung et al. teach this limitation in paragraph {0017].

Applicant argues that Phung et al. reference does teach not generating fault prediction based on the collected data.

Examiner disagrees with the Applicant argument since Phung et al. teach fault prediction in page 7, claim 7.

Prior art

7. The prior art made record and not relied upon is considered pertinent to applicant's disclosure:

Holzinger et al. ['432] disclose remote diagnosis of data processing units.

Miszczynski et al. ['125] disclose system and process for analyzing a medical condition of a user.

Segal ['655] discloses system and methods for diagnosing medical conditions.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Contact information

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mohamed Charioui whose telephone number is (571) 272-2213. The examiner can normally be reached Monday through Friday, from 9 am to 6 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marc S Hoff can be reached on (571) 272-2216. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Mohamed Charioui

8/3/05


MARC S. HOFF
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